

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
SEPTEMBER 26, 2018

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:00 a.m.

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Scott Allman, Code Compliance Inspector
Dena Joseph, Code Compliance Inspector
Amanda Bonin, Code Compliance Inspector
Dennis Boehmer, Code Compliance Inspector
Debbie Pearson, Code Enforcement Manager
Robin Fenwick, City Clerk

Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller dispensed with the overview as no members of the public were present.

Consideration of Minutes

Special Magistrate Fuller approved the September 12, 2018 meeting minutes as presented.

Oaths

Code Compliance Inspectors Scott Allman, Dena Joseph, Amanda Bonin, and Dennis Boehmer and Code Enforcement Manager Debbie Pearson were sworn in by Special Magistrate Fuller.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 18-1361
Respondent: Larry Paul Edwards Estate
Valley National Bank
Daycap Holdings, LLC
Address of Violation: 1108 Harms Way, Port Orange, FL 32129
Code Officer: Amanda Bonin
First Notified: 08/08/2018

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances and

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

Amanda Bonin, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected on or before September 6, 2018 by mowing, weed-eating, and edging the entire property including the right of way, and to repair the broken vinyl fence. Re-inspections were conducted on September 11, 2018 and September 24, 2018 and found the property remains in non-compliance.

Ms. Bonin recommended the property owners be found in violation of the above referenced code with the violations to be corrected on or before October 8, 2018. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine of \$50.00 per day will be assessed for each day the property is in violation beyond the compliance date. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Bonin requested any future violations under this ordinance being considered repeat and that the property be deemed as a health and safety concern for the surrounding neighbors in that the tall grass has become a haven for excess rodents, snakes, etc. The cost sheet in the amount of \$69.84 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and found it to be a health and safety concern. The property owner has until October 8, 2018 to bring the property into compliance or a daily fine of \$50.00 per day will be assessed. Costs in the amount of \$69.84 were awarded to the City.

4. CEB Case No.: 18-1307

Respondent: Associates Financial Services
C/o Ophelia Rebecca Steele

Address of Violation: 401 Leslie Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 08/13/2018

Compliance: Yes

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Scott Allman, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested a dismissal as this property is in compliance with the notice. Special Magistrate Fuller granted the dismissal request.

5. CEB Case No.: 18-1248

Respondent: Victoria E. Heller

Address of Violation: 974 Countryside West Blvd., Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 08/02/2018

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 3, Section 303 (Swimming Pools, Spas, and Hot Tubs), 303.1 (Swimming Pools), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Mr. Allman testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by September 17, 2018 by mowing the entire property and trimming all high weeds and by cleaning the unsanitary pool or by installing a valid pool cover. Re-inspections were conducted on September 17, 2018 and September 20, 2018 and found the property remains in non-compliance. However, on September 25, 2018, another inspection was conducted showing partial compliance with the notice. Mowing has been completed but weeding has not. The pool has been covered and is in compliance.

Mr. Allman recommended the property owners be found in violation of the above referenced code with the violations to be corrected on or before October 12, 2018. In the event the property is not brought into full compliance on or before the compliance date, and/or not maintained in a state of compliance, the City shall have the option to abate the violation as this is a health and safety concern and a daily fine of \$100.00 per day shall be assessed for each day the property is in violation beyond the compliance date as to the high weeds only. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Allman requested any future violations under this ordinance being considered repeat. The cost sheet in the amount of \$41.28 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller found the property in violation as the violations were not completed by the compliance date in the Notice. The property owner has until October 12, 2018 to bring the property into full compliance and maintaining the property in compliance. Costs in the amount of \$41.28 were awarded to the City.

6. CEB Case No.: 18-1270

Respondent: Kayla Angela Green

Address of Violation: 704 Greenfield Drive, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 08/08/2018

Compliance: Yes

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Chapter 70 (Traffic), Article II (Stopping, Standing, and Parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances.

Dennis Boehmer, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested a dismissal as this property is in compliance with the notice. Special Magistrate Fuller granted the dismissal request.

7. **CEB Case No.:** 18-1342
Respondent: Springwood Square Joint Ventures
Address of Violation: Springwood Square Common Areas
Port Orange, FL 32129
Code Officer: Dennis Boehmer
First Notified: 08/17/2018

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Mr. Boehmer testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The repeat violation was to be corrected on or before August 22, 2018 by mowing the entire property to include weed eating, edging, blowing, etc. and removing all fallen limbs on the site. Re-inspection was conducted on September 11, 2018 and found the property remains in non-compliance.

Mr. Boehmer recommended the property owners be found in violation of the above referenced code with the violations to be corrected on or before October 6, 2018. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, the City shall have the option to abate the violation as this is a health and safety concern. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Boehmer requested any future violations under this ordinance being considered repeat. The cost sheet in the amount of \$41.28 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and found the violation a repeat violation. The property owner has until October 6, 2018 to bring the property into compliance or the City shall have the option to abate the violations. No daily fine was recommended or awarded. Costs in the amount of \$41.28 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

8. **CEB Case No.:** 17-1882 (Part 2)
Respondent: Barbara & Richard L. Divoll
Address of Violation: 164 Sweetgum Lane, Port Orange, FL 32129
Code Officer: Dennis Boehmer
First Notified: 12/12/2017

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 42, Section 42.26(d): Maintenance of improved residential lots and

City of Port Orange Land Development Code, Chapter 16, Section 3(b), 4(b)(d): All fences shall be maintained in their original upright condition.

Sandra Kotur, Attorney for the Loan Servicing Company, advised that they did not receive a copy of the Finding of Fact, Conclusion of Law & Order. Her position is that they have completed the items listed in the Finding of Fact and was not supposed to complete the roof repair/replacement but rather it would be revisited at this hearing. She also did not receive the Order Setting Fine/Lien. The copies were sent to Utah rather than Boca Roton, FL.

Mr. Boehmer testified the fence was not repaired or replaced as required in the Finding of Fact.

Deborah Pearson, Code Enforcement Manager, was sworn in by the Special Magistrate Fuller and testified as to the service of the property owner pursuant to Florida Statutes. Ms. Kotur, Select Portfolio, and Samantha Morales are not the property owners. She believes service is sufficient.

Special Magistrate Fuller is not aware of any Code or Statute that requires the City to notify a mortgagee or loan servicing company.

Ms. Pearson testified as to the service and questioned Ms. Kotur regarding the repair/replace/removal of the fence. Ms. Kotur has not viewed the property herself to confirm that the fencing was in fact repaired/replaced/removed by their contractor.

Special Magistrate Fuller found the service on the property owner was proper. He believes Ms. Kotur should have been noticed since she appeared at the June 2018 hearing. Robin Fenwick, City Clerk, advised Special Magistrate Fuller that notice was provided to Samantha Morales as requested at the June 2018 hearing by Ms. Kotur. There are copies in the Clerk's file of the mailings.

Mr. Boehmer requested an Order Setting Fine/Lien as the property was not in compliance on or before July 6, 2018 as ordered in the previous hearing on June 13, 2018 by the Special Magistrate. The roof was to be repaired within 90 days, to wit: September 13, 2018. A re-inspection on September 21, 2018 found the roof remains

unrepaired/replaced and the property remains in non-compliance. Mr. Boehmer requested the property be found in violation. A cost sheet for mailing and recording costs in the amount of \$168.36 was tendered and submitted into evidence without objection.

Special Magistrate Fuller asked the City Clerk to add Ms. Kotur to the mailing list of all proceedings. Ms. Kotur made an ore tenus Motion to Vacant the Order Imposing Fine/Lien. Special Magistrate Fuller asked the Clerk to schedule a hearing on the Motion to Vacant. Special Magistrate Fuller found the property in non-compliance as to the roof repairs/replacement as there was no permit pulled within 90 days as agreed to by the parties. He found that the property owner was afforded due process. Mailing and recording costs to date of \$168.36 were also awarded to the City.

Ms. Pearson advised they will be happy to work with Ms. Kotur to ensure compliance as required to meet the City's Codes. Special Magistrate Fuller suggested Ms. Kotur work with Mr. Boehmer to bring the property into compliance and asked Staff to discuss the case with the City Attorney's Office. A hearing on Ms. Kotur's Motion to Vacate hearing will be held on Wednesday, October 24, 2018 at 9:00 a.m. Special Magistrate Fuller wants to hear about Ms. Kotur's client's standing in this case as they are not the owner. He deferred the issue as to the roof until October 24, 2018.

9. CEB Case No.: 17-1586

Respondent: Brenda Markham

Address of Violation: 198 Moonstone Court, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 10/19/2017

Compliance: Yes

Cited for violation(s) - 2018 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 3014.1.8: Roofing or roofing components that have defects that admit rain, roof surfaces with adequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue, or without property anchorage and incapable of supporting all nominal loads and resisting all load defects and

304.7 Roofs and drainage: The roof and flashing shall be sound, tight and not have defects that admit rain.

Mr. Boehmer requested a dismissal as this property is in compliance with the Finding of Fact, Conclusion of Law, & Order. Special Magistrate Fuller granted the dismissal request.

10. CEB Case No.: 17-1588 (Continued from 8/22/18)

Respondent: Steven Joseph Srno

Address of Violation: 1166 N. Tracy Drive, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 10/20/2017

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances,

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances,

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Ms. Bonin requested the case be continued until October 24, 2018. Special Magistrate Fuller granted the continuance request.

11. CEB Case No.: 18-0569

Respondent: Richard W. Radabaugh-Timmons

Address of Violation: 5422 Taylor Road, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 04/25/2018

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances.

Dena Joseph, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested an Order Setting Fine/Lien as the property was not in compliance on or before September 2, 2018 as ordered in the previous hearing on August 22, 2018 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day as ordered in the Finding of Fact, Conclusion of Law & Order to begin on September 3, 2018 and running through and including the 20th day of September 2018 (18 days). The City has incurred costs in the amount of \$100.00 by Mark Solomon Properties, who abated the violations. A cost sheet for mailing and recording costs in the amount of \$92.42 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded a daily fine against the property in the amount of \$100.00 per day that the property remained in non-compliance, September 3, 2018 through and including September 20, 2018, (18 days) for a total daily fine in the amount of \$1,800.00, plus \$100 for the City's vendor costs, and mailing and recording costs to date of \$92.42. A lien is imposed on the subject property in the total amount of \$1,992.42.

12. CEB Case No.: 18-1025

Respondent: JNG Property Group, LLC

Address of Violation: 5204 Sydney Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 06/27/2018

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances and

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance on or before September 2, 2018 as ordered in the previous hearing on August 22, 2018 by the Special Magistrate. She requested a daily fine in the amount of \$100.00 per day as ordered in the Finding of Fact, Conclusion of Law & Order to begin on September 3, 2018 and running through and including the 20th day of September 2018 (18 days). The City has incurred costs in the amount of \$200.00 by Mark Solomon Properties, who abated the violations. A cost sheet for mailing and recording costs in the amount of \$92.42 was tendered and submitted into evidence without objection.

Special Magistrate Fuller found the property in non-compliance and awarded a daily fine against the property in the amount of \$100.00 per day that the property remained in non-compliance, September 3, 2018 through and including September 20, 2018, (18 days) for a total daily fine in the amount of \$1,800.00, plus \$200 for the City's vendor costs, and mailing and recording costs to date of \$92.42. A lien is imposed on the subject property in the total amount of \$2,092.42.

ADJOURNMENT – 10:53 a.m.


Special Magistrate David Fuller